

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Willis Wynne, et al.

Plaintiff(s),

v.

City of New York,

Defendant(s).

1:23 __-cv- 9955 (DEH)

CIVIL CASE MANAGEMENT
PLAN AND SCHEDULING
ORDER

DALE E. HO, United States District Judge:

This Civil Case Management Plan and Scheduling Order is submitted by the parties in accordance with Rule 26(f)(3).¹

1. All parties [consent / do not consent] to conducting all further proceedings before a United States Magistrate Judge, including motions and trial. 28 U.S.C. § 636(c). The parties are free to withhold consent without any adverse substantive consequences.
*[If all parties consent, the remaining paragraphs need not be completed at this time. Instead, within **three business days** of submitting this Case Management Plan and Scheduling Order, the parties shall submit to the Court a fully executed Notice, Consent, and Reference of a Civil Action to a Magistrate Judge, available at <https://nysd.uscourts.gov/sites/default/files/2018-06/AO-3.pdf>.]*
2. The case [is / is not] to be tried to a jury.
3. The parties [have / have not] conferred pursuant to Rule 26(f).
4. Settlement discussions [have / have not] taken place.
 - a. Counsel for the parties have discussed an informal exchange of information in aid of early settlement and have agreed to exchange the following information within 2 weeks days/weeks: The Parties have engaged in initial discovery focused on settlement. Specifically, Defendant produced payroll (FISA) and timekeeping (CityTime) data for the majority of the Plaintiffs, which has enabled Plaintiffs to make an initial settlement demand on June 14, 2024. Plaintiffs shared their damages methodology and underlying programming with the City at the time of their initial demand. The City will produce data for the 19 plaintiffs for whom no data has yet been produced and any opt-ins who join the action on or before December 2, 2024, as soon as possible.

¹ All references to Rules are to the Federal Rules of Civil Procedure.

b. Counsel for the parties believe the following alternative dispute resolution mechanisms may be helpful in resolving this case (check all that apply):

- Immediate referral to the District's Mediation Program
- Immediate referral to a Magistrate Judge

While the Parties have been referred to the District's Mediation Program through the pilot program for FLSA cases, both Parties believe it would be more effective to proceed with a settlement conference before Magistrate Judge Gorenstein.
- Referral to the District's Mediation Program after the close of fact discovery
- Referral to a Magistrate Judge after the close of fact discovery
- Retention of a private mediator
- Other: _____

c. **The use of any alternative dispute resolution mechanism does not stay or modify any date in this order.**

5. Initial disclosures pursuant to Rule 26(a)(1) shall be completed no later than November 15, 2024. [*Absent exceptional circumstances, a date not more than 14 days following the Initial Pretrial Conference.*]
6. Unless a party amends a pleading as a matter of course pursuant to Rule 15(a)(1), amended pleadings may not be filed and additional parties may not be joined except with leave of the Court. Any motion for leave to amend or join additional parties shall be filed no later than December 2, 2024*. [*Absent exceptional circumstances, a date not more than 30 days following the date of this Order. Any motion to amend or to join additional parties filed after the deadline in this paragraph will be subject to the “good cause” standard in Rule 16(b)(4) rather than the more lenient standards of Rule 15 and 21.*]

*Absent settlement, Plaintiffs will continue to add party-plaintiffs through the filing of consent-to-sue forms.

7. Fact Discovery
 - a. All fact discovery shall be completed no later than April 30, 2025. [*A period not to exceed 120 days from the date of this Order, unless approved by the Court due to exceptional circumstances.*]
 - b. Initial requests for production of documents pursuant to Rule 34 shall be served no later than December 2, 2024. [*Absent exceptional circumstances, a date not more than 30 days following the Initial Pretrial Conference.*]
 - c. Interrogatories pursuant to Rule 33 shall be served no later than December 2, 2024. [*Absent exceptional circumstances, a date not more than 30 days following the Initial Pretrial Conference.*]

- d. Depositions pursuant to Rules 30 and 31 shall be completed by the date set forth in paragraph 7(a).
 - e. Requests to admit pursuant to Rule 36 shall be served no later than March 31, 2025. *[Absent exceptional circumstances, a date no later than 30 days before the close of all discovery.]*
 - f. Any of the deadlines in paragraphs 7(b)–(d) may be extended by the written consent of all parties without application to the Court, provided that all discovery pursuant to paragraphs 7(b)–(d) is completed by the date set forth in paragraph 7(a).
8. [If applicable] Expert Discovery
- a. Anticipated types of experts: Plaintiffs anticipate an expert on analyzing large data sets and calculating damages from those datasets. Defendant anticipates a rebuttal expert on managing large data sets.
 - b. All expert discovery, including expert reports and depositions, shall be completed no later than June 15, 2025. *[Absent exceptional circumstances, a date no later than 45 days from the end of fact discovery deadline set forth in paragraph 7(a).]*
 - c. Plaintiff's expert disclosures pursuant to Rule 26(a)(2) shall be made no later than April 30, 2025.
 - d. Defendant's expert disclosures pursuant to Rule 26(a)(2) shall be made no later than March 31, 2025.
 - e. The interim deadlines in paragraphs 8(c)–(d) may be extended by the written consent of all parties without application to the Court, provided that expert discovery is completed by the date set forth in paragraph 8(b).
9. [To be completed by the Court] The Court will conduct a case management conference following the close of discovery on _____ at _____. The parties shall join the conference by dialing (646) 453 - 4442 and entering the conference ID: _____, followed by the pound sign (#). The parties shall submit a joint status letter by _____. The letter shall state whether any party intends to file a dispositive motion. The letter shall further describe the efforts the parties have made to settle the action and state whether the parties request a referral for settlement discussions before the assigned Magistrate Judge or through the District's Mediation Program.
10. Unless otherwise ordered by the Court, the parties shall submit to the Court for its approval a Joint Pretrial Order—prepared in accordance with the Court's Individual Trial Rules and Procedures and Rule 26(a)(3)—by 30 days after a decision on any motions for summary judgment. *[Absent exceptional circumstances, within 30 days of the close of all discovery or, if a dispositive motion has been filed, no more than 30 days of a decision on such motion.]*

11. The parties shall be ready for trial as of **two weeks** following the deadline for the proposed Joint Pretrial Order.
12. Counsel for the parties have conferred and their best estimate of the length of trial is 5-7 days.
13. Other issues to be addressed at the Initial Case Management Conference, including those set forth in Rule 26(f)(3), are set forth below:
Absent settlement, the Parties will enter into a Joint Stipulation on Representative Discovery in order to permit the Parties to select "Phase I" plaintiffs for purposes of discovery and summary judgment. The stipulation will also set forth limitations on depositions and deposition length.
If the Parties determine that a protective order is required given that this case involves employment information, they will jointly submit one for the Court's approval.
14. This Order may not be modified or the dates herein extended, except as provided in paragraphs 7(f) and 8(e) or by further Order of the Court for good cause shown. Any application to modify or extend the dates herein, except as provided in paragraphs 7(f) and 8(e), shall be made in a written application in accordance with the Court's Individual Rules and Practices and shall be made no fewer than **two business days** prior to the expiration of the date sought to be extended.

Dated:

New York, New York

SO ORDERED.

DALE E. HO
United States District Judge